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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

CR-13-607

-against-

:

United States Courthouse
Central Islip, New York

PHILLIP A. KENNER and
TOMMY C. CONSTANTINE,

Defendants.

:

July 9, 2015

- - - - - X

9:30 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JOSEPH F. BIANCO
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the Government:

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For Mr. Kenner

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LARUSSO & CONWAY
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BY: ROBERT LARUSSO, ESQ.
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Proceedings recorded by mechanical stenography.
Transcript produced by computer.

Mary Ann Steiger, CSR
Official Court Reporter

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1 THE CLERK: All rise

2 THE COURT: Please be seated.

3 (Case called, appearances noted.)

4 (Time noted: 11:40 a.m.)

5 THE COURT: It's 11:40. We did receive a note
6 this morning saying; can we have credit card statements
7 from November '08 through January '09 for P. Kenner, if
8 available.

9 MS. KOMATIREDDY: We have isolated those and
10 they were made available for inspection by the defense and
11 I don't believe there's an objection.

12 MR. LARUSSO: No objection.

13 MR. HALEY: No objection.

14 THE COURT: Would you read out the numbers.

15 MS. KOMATIREDDY: Those numbers are Government's
16 Exhibits 3002, 3003, 3004, 3253, 3102, 3103, which are
17 statements for Citicard, Chase and American Express.

18 THE COURT: Okay. My law clerk will bring those
19 back.

20 MR. HALEY: Your Honor, before the clerk does
21 that, may I simply make one statement on the record?

22 THE COURT: Sure.

23 MR. HALEY: Yesterday there was a request for
24 documents as related to Led Better, as your Honor may
25 recall, and the government introduced the binder that

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1 contained the Led Better exhibits and there were a number
2 of other exhibits.

3 Your Honor may recall that one of the Led Better
4 charts showed the flow of money that came out, went into
5 Led Better and came back from Kaiser and then Ula Makika,
6 and then within that line of distribution it showed a
7 \$200,000 payment six weeks thereafter going to Phil
8 Kenner.

9 The reason I bring that to the Court's attention
10 is from our perspective what should be made part of that
11 submission would be Kenner Exhibit 30, the environmental
12 indemnity agreement, wherein that \$200,000 payment would
13 be authorized.

14 As a matter of fact, your Honor may recall
15 during the course of my summation I made specific mention
16 of that disbursement of \$200,000 as being authorized by
17 the environmental indemnity agreement.

18 So my position is simply that as we submit these
19 exhibits, that the environmental indemnity agreement be
20 also submitted to the jury.

21 MR. MISKIEWICZ: We object. It's essentially an
22 argument.

23 On the face of it the document has nothing to do
24 with Led Better. It's entirely related to the Hawaii land
25 venture and one could, if we were to adopt that sort of

1 interpretation of the note, we would have to also include
2 a great many bank records which also show how ultimately
3 the money stolen in the Led Better fraud, or aspect of the
4 fraud, was also then subsequently diverted.

5 So we object to sending that particular document
6 back to the jury in response to that very specific,
7 narrowly tailored, note.

8 MR. HALEY: Your Honor, if I may, if the
9 government's chart included monies other than that
10 \$200,000, I would think that argument would have some
11 merit.

12 But, indeed, that \$200,000 payment at least it
13 specifically -- as relates to the environmental indemnity
14 agreement mentioned in paragraph 1.2, is a fee due Phil
15 Kenner as relates to his obligation when he undertook the
16 environmental indemnity exposure in liability.

17 Again, I think it matches up with the
18 government's chart so that's why I submit it's relevant
19 material.

20 And again, judge, I think for purposes of simply
21 the jury having enough information as they deliberate they
22 may accept or reject that as having meaning, but that's up
23 to the jury. So I have made my record.

24 THE COURT: Let me --

25 MR. HALEY: Do you want to see it, judge?

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1 THE COURT: Yes.

2 MR. HALEY: It's paragraph -- the Court can look
3 at the entire document, but it's paragraph 1.2 on the
4 second page in particular.

5 (Pause in proceedings.)

6 THE COURT: As I said, as you know, my practice
7 is obviously to be as complete in responding to the notes
8 as we can without giving them things they're not asking
9 for.

10 One of the problems I have with getting them --
11 this is attenuated and sending this back there now, if you
12 look at the document, it doesn't have anything to do with
13 Sag Harbor or Led Better. So if we send this document
14 back there, I don't think they'll know why we're giving
15 them this. It won't jump out that it relates to Sag
16 Harbor.

17 MR. HALEY: I would agree it does not
18 specifically reference Sag Harbor.

19 My memory of my summation though is I was
20 covering Sag Harbor, in particular in the disbursements of
21 Sag Harbor, in particular I addressed the \$200,000 payment
22 that flowed to Phil Kenner following the return of the Sag
23 Harbor monies to Ula Makika.

24 And I'm pretty certain I argued to the jury that
25 the monies that were then paid out by way of that \$200,000

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1 were specifically authorized by the environmental
2 indemnity agreement.

3 To the extent they have a memory of that
4 argument being made, that document is supportive of that
5 argument. I don't know what the thought process is that's
6 going on, judge, as relates to those issues, but that's my
7 offer of proof.

8 THE COURT: Again, because it wasn't sent back
9 with the group, they think they have all the documents
10 responsive to all their notes except for obviously this
11 one, so it's not even going back with the stack of stuff
12 related to Sag Harbor. They wouldn't even know what note
13 we're responding to. Do you understand what I'm saying?

14 MR. HALEY: I do. And I think the solution
15 would be simply a note saying supplementary Led Better
16 document. It's that simple, a yellow sticker that says
17 supplementary Led Better document for their consideration
18 or not.

19 MR. MISKIEWICZ: Your Honor, that's precisely my
20 concern that, in essence, that note would be a
21 supplemental defense argument at this stage.

22 THE COURT: Well, it would actually be worse
23 than that. It might be an endorsement of the Court that
24 this relates to Sag Harbor, which is worse than the
25 supplemental defense argument. It would make it appear

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1 this is a determination.

2 MR. HALEY: I'll handwrite the note, judge.

3 THE COURT: This is what I'll do. I'm
4 emphasizing this as a very generous interpretation.

5 What I will do is I will bring them out and say
6 that I'm going to specifically reference you -- so it
7 doesn't look like it's an enforcement by me -- Mr. Haley
8 mentioned in connection with in his summation with respect
9 to Sag Harbor, he mentioned the environmental indemnity
10 agreement so I will provide you with that document as
11 well. Okay?

12 MR. HALEY: Thank you, judge.

13 THE COURT: I think Michelle advised you in
14 terms of the scheduling issues that some -- at least one
15 juror has an issue staying late tonight, and more than one
16 juror has issues with tomorrow. I think Michelle said
17 something to them like don't rush. She conveyed that to
18 me so my thinking on that is to leave it alone for now.

19 Ultimately I think, if they haven't reached a
20 verdict by the end of the day, I will offer to see if
21 they're available to come in Saturday or Sunday, whichever
22 day all of them can come in.

23 It creates -- I have to make that decision so
24 that the marshals and the various people that have to get
25 situated for that would have time to get the personnel in

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1 place, unless anyone thinks otherwise.

2 I don't think I should throw out Saturday or
3 Sunday at this point because it's only 11:50. We don't
4 know whether that will become an issue.

5 Ultimately, they're probably thinking, based on
6 what I told the alternates, if they can't work Saturday
7 and Sunday, then I'll call in one of the alternates.
8 That's probably what they're thinking given what I said,
9 but that's not what I'm thinking. I think I'll go with
10 11. I'll hear everybody's view on that at the end of the
11 day if we get into that situation.

12 And if, for whatever reason, they can't serve
13 Saturday and Sunday, I'll push very hard to see when there
14 is a time this weekend where they will be available. And
15 assuming there was some irreconcilable issue, I think it
16 would be better to go with 11 rather than have another
17 juror come in after two-and-a-half days of deliberations
18 and tell them to start over again.

19 We also have this other juror with July 16
20 vacation plans. And if they started over again on Monday,
21 we would run into a problem with that juror.

22 I was trying to figure out what happened and
23 why. I didn't recall that the juror had said to Michelle,
24 I told you this a month ago, or someone a month ago, and I
25 couldn't figure out how come we didn't have that.

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1 What happened was, I don't know if you remember
2 this, in late May, early June, it might have been around
3 the time Mr. LaRusso's mom passed away, but I had my law
4 clerk go back there at the end of the day one day and get
5 everybody's schedule for June.

6 And she can back in and showed me some airline
7 tickets or something for mid-July which was for juror one.
8 I laughed. I said, I didn't ask for July, I asked for
9 June.

10 I paid no attention to it because at that point,
11 in late May and early June, the idea we would still be
12 going in July, we were all laughing about that, so I
13 didn't make any note of the fact that she made me aware of
14 that because at that time mid-July wasn't something I was
15 worried about at all.

16 I apologize for that. That's what happened. It
17 wasn't her fault. I think we can deal with the situation
18 within the rules.

19 MR. LARUSSO: Your Honor, if I may, just to
20 comment with regards to it, what I'm concerned about is
21 the possibility that because of what is clear to all, that
22 there is some scheduling problems and difficulties in
23 getting all of the jurors together, that there may be an
24 inclination on the part of the jurors to rush
25 deliberations.

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1 I'm wondering if there's any way we can assure
2 the jurors that we understand there have been scheduling
3 conflicts, but I would like to remind you that that should
4 not interfere with your deliberative process, that you
5 should take whatever time is necessary and we will work
6 out the scheduling, and not basically tell them that we're
7 going to work Saturday or Sunday, but say it will be
8 worked out, but it is your duty to deliberate as
9 thoroughly as possible.

10 That's the only suggestion I would ask the Court
11 to consider.

12 THE COURT: I think that's a good suggestion.
13 I'll say something like I know juror number one has
14 vacation starting on Monday, another juror has vacation
15 later in the week, but I want to emphasize that don't
16 rush, you can't rush, and we will work out -- whatever
17 scheduling issues we have, we will work out if we need to.

18 MR. LARUSSO: That's fine, judge.

19 MR. MISKIEWICZ: Yes, agreed.

20 Two observations though. One is since it may be
21 completely unfamiliar to them that they could
22 theoretically sit on a Saturday or Sunday, advising them
23 that's an option might not cause them to rush, but
24 actually may enable them to make appropriate arrangements
25 so that they could do that if they wish.

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1 For that reason I guess what I'm suggesting is
2 it might not have the effect of rushing them.

3 Going back to the indemnity agreement, we would
4 ask that the Court in its instructions or in whatever it
5 says to the jury, highlight the fact it's not an
6 endorsement by the Court one way or another to what this
7 evidence is.

8 THE COURT: I'm just going to say Mr. Haley
9 mentioned the environmental indemnity agreement in
10 connection with his discussion of Sag Harbor, and he asked
11 me to give that document to you and I am. It's not an
12 endorsement.

13 I could offer them the possibility of the
14 weekend now. I think Mr. LaRusso's suggestion we will
15 work it out is better. I don't want them to think that's
16 how I intend to work it out. I think it's better to say
17 we will work it out.

18 MR. HALEY: Yes.

19 MR. MISKIEWICZ: I understand the concern and I
20 agree with it.

21 My only suggestion is that when you're dealing
22 with 12 people or 11 people, the more information they're
23 given earlier, the easier it may be for them to work out
24 whatever scheduling they have.

25 THE COURT: We're only talking about --

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1 obviously they would have a day tomorrow to work out
2 whatever issues they have for Saturday or Sunday. They
3 may think this is what the Judge intends and anyone who
4 doesn't want to come on Saturday or Sunday, they might
5 rush. I think they know from my history, and I excused
6 other jurors, that I'm very accommodating and I'll say I
7 will work out the schedule and that will make them
8 comfortable.

9 MR. HALEY: I concur with the court's thought
10 process.

11 MR. LARUSSO: I do too.

12 THE COURT: Let's bring them in.

13 (The jury is present.)

14 THE COURT: Please be seated.

15 Good morning, members of the jury.

16 ALL JURORS: Good morning.

17 THE COURT: It's good to see everyone. I
18 brought you out just to go over a couple of things with
19 you; three things.

20 The first is yesterday, as you know, we
21 responded to all the notes other than the one that you
22 provided me this morning.

23 But in connection with one request you made
24 which were the documents related to Sag Harbor/Led Better,
25 in Mr. Haley's summation, in his discussion of Sag

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1 Harbor/Led Better, he mentioned an exhibit called the
2 environmental indemnity agreement which was Kenner Exhibit
3 30 and he's requested, because he mentioned that in his
4 argument in connection with Sag Harbor, that I provide you
5 with that document too, so I am going to do that and give
6 you that document.

7 The second thing is we did get the note that you
8 would like the credit card statements from November '08
9 through January '09 for P. Kenner, and so we will give you
10 those.

11 The final thing is I want to discuss scheduling
12 with you, and I know juror number one has a vacation
13 scheduled for Monday. I know another juror has vacation
14 scheduled at some point next week as well.

15 I did offer that you can stay later tonight
16 and/or come in tomorrow if you wanted to do that, and I
17 understand that various jurors have issues with that and
18 that's fine. I'm not going to force anybody to come in if
19 it's not convenient for everybody.

20 I also want to emphasize it's very important
21 that you not rush, you can't rush, you need to take as
22 much time as you need to complete your deliberations and
23 don't worry about these various scheduling issues. I will
24 work them out. I will accommodate everybody's schedule
25 and nobody will lose a vacation. I can work all these

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2 issues out. Don't rush, take your time to complete your
3 deliberations and whatever scheduling issues that arise we
4 will accommodate everybody, okay?

5 With that, please return to your deliberations.

6 Thank you.

7 (The jury continues deliberations.)

8 THE COURT: Be seated.

9 Is everybody happy with that?

10 MR. LARUSSO: Thank you, your Honor.

11 MR. HALEY: Thank you, judge.

12 THE COURT: Okay.

13 (Recess taken.)

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1 A F T E R N O O N S E S S I O N

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3 THE COURT: We received another note which has
4 been shown to both sides marked Court's Exhibit 15.

5 Is there evidence of the location of P. Kenner
6 on or about December 1 through December 8, 2009, and/or is
7 there an Amex statement for P. Kenner with a closing date
8 earlier than the date on 3102, and then they sent back out
9 the exhibit 3102, which is the Amex bill. So we can
10 discuss what the answers to those two things are.

11 MR. MISKIEWICZ: We haven't had a chance to show
12 Mr. Kenner or Mr. Constantine the exhibits, but we do have
13 a number of them identified. We can do that now, your
14 Honor.

15 THE COURT: Is there any evidence of the
16 location of Kenner on or about December 1 through December
17 8, 2009?

18 MR. MISKIEWICZ: There is a document. It's his
19 mortgage history record of payment. It shows on December
20 1, 2009, he made a cash payment at the Wells Fargo branch
21 of Scottsdale, Arizona. That's Government's Exhibit 1453.

22 THE COURT: Do you want to show that to them.

23 MR. HALEY: Your Honor, if there's a number of
24 exhibits, perhaps we can walk over and look at them
25 collectively.

1 THE COURT: If you want your client to see it,
2 it's better to do it there.

3 MR. MISKIEWICZ: Your Honor, I think you have
4 3102. We're looking for what the earlier closing date is.

5 (Exhibit handed.)

6 MR. HALEY: Your Honor, we're just focused on
7 the bank statements, I take it?

8 THE COURT: There's two parts. One is the
9 location between December 1 and 8, 2009, and the
10 government says there's one document that's responsive to
11 that.

12 MR. HALEY: Correct. We have no objection to
13 that.

14 MR. MISKIEWICZ: That's government 1453.

15 MR. HALEY: No objection.

16 MR. LARUSSO: No objection.

17 THE COURT: Why don't we put that aside for now.

18 And on the bank statements, any bank statement
19 prior to the closing date of Exhibit 3102?

20 MR. HALEY: 3102, judge, has a closing date of
21 1/29/09, and technically there's seven years of statements
22 that precede 1/29/09 bank statements.

23 | THE COURT: In evidence?

24 MR. MISKIEWICZ: We only focused on American
25 Express. It says is there an Amex statement.

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1 MR. HALEY: Good point.

2 MR. MISKIEWICZ: That's what we focused on and
3 we found a few. I don't know if it's really what they're
4 looking for. We can tell you what it says.

5 Government's Exhibit 3110 is an American Express
6 statement with a closing date of 7/30/06; 3111 has a
7 closing date of 8/29/06; 3112 has a closing date of
8 9/29/06, and 3113 has a closing date of 1/30/05.

9 THE COURT: Those are the only ones that were
10 introduced?

11 MR. MISKIEWICZ: Those are the only American
12 Express statements that precede that particular closing
13 date that's listed in Government's Exhibit 3102 which they
14 have referenced in their note. So technically this would
15 fall within what they're asking for.

16 THE COURT: Okay. It looks like they're looking
17 for the one immediately preceding that one.

18 MR. MISKIEWICZ: It doesn't exist or it's not in
19 evidence.

20 THE COURT: So you're in agreement those are the
21 ones that should go back?

22 MR. HALEY: Yes, your Honor.

23 However, before we finish that issue, there is
24 evidence as to Phil Kenner's location at that period of
25 time, and it was evidence that was presented by way of his

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1 direct testimony.

2 THE COURT: What would that be?

3 MR. HALEY: That would be --

4 MR. LARUSSO: I have it here, judge. Page
5 4514-4515. I have highlighted some portion of it. I just
6 did that, judge.

7 THE COURT: It seems responsive.

8 Does the government agree?

9 MR. MISKIEWICZ: We certainly agree as to page
10 4514. I haven't had a chance to continue. It seems like
11 there's a lot of other testimony here that's beyond the
12 question. I've been handed page 4515. I don't know if
13 that's what counsel also means.

14 THE COURT: Mr. LaRusso me 4915 down to line 4.

15 MR. LARUSSO: That's what I highlighted, judge.
16 I didn't confer with counsel on it.

17 MR. MISKIEWICZ: I'm sorry. I don't have the
18 highlighted version.

19 THE COURT: Here you go. To line 4 on the next
20 page.

21 MR. MISKIEWICZ: The government agrees that's
22 responsive up to line 4.

23 We have not had an opportunity though to yet
24 look for testimony. I believe Mr. Privitello may have
25 also testified along these lines and we're looking for

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1 that.

2 THE COURT: To an exact date?

3 MR. MISKIEWICZ: We think so.

4 MR. HALEY: As to where Mr. Kenner is located?

5 MR. MISKIEWICZ: We think he may have.

6 THE COURT: I'll give you a couple of minutes to
7 do that.

8 MR. MISKIEWICZ: Thank you.

9 THE COURT: I'll come back out in 10 minutes. I
10 would suggest you search the word December in Privitello's
11 testimony.

12 MR. MISKIEWICZ: Yes. We've got a computer
13 program that allows us to do word searches.

14 (Recess taken.)

15 (After recess.)

16 THE COURT: The jury buzzed and asked if their
17 note was in progress. Are we ready to go?

18 MR. MISKIEWICZ: We have the documents.

19 THE COURT: What about Mr. Privitello's
20 testimony?

21 MR. MISKIEWICZ: We have located -- we're still
22 working on it, your Honor. We've located one reference of
23 a phone call between Mr. Privitello and Mr. Kenner in
24 December, but we're trying to locate and see if there's
25 any references where Mr. Kenner was in this particular bit

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1 of testimony.

2 THE COURT: The recording was admitted?

3 MR. MISKIEWICZ: It was a telephone call. He

4 testified as to a telephone call he had with Mr. Kenner.

5 Mr. Privitello was in New York. Mr. Kenner, we're trying

6 to ascertain whether it says anything in the transcript

7 about where he was. It would have been in or about

8 December '09.

9 (Pause in proceedings.)

10 THE COURT: Do you think there's testimony of

11 Mr. Privitello saying where he was at the time he called

12 him? I don't know why that would have come up in

13 Mr. Privitello's testimony. Does anybody remember that?

14 MR. HALEY: Your Honor, admittedly I'm bias. We

15 looked at the Privitello testimony as the government has.

16 We're not seeing that specific testimony being offered by

17 Mr. Privitello.

18 THE COURT: That wouldn't have been relevant to

19 Mr. Privitello's testimony, right?

20 MR. MISKIEWICZ: The reference to the phone

21 call, I agree, does not make reference to where Mr. Kenner

22 was at the time, but it's not only Mr. Privitello. There

23 were -- and I guess we're still looking for that.

24 THE COURT: Why don't I bring them out. I don't

25 want to keep them waiting too long. I'll give them the

1 documents, we will read Mr. Kenner's testimony, and if you
2 should find something else I'll bring them back out; is
3 everybody agreeable to that?

4 MR. MISKIEWICZ: We have no objection.

5 MR. LARUSSO: No objection, judge.

6 MR. HALEY: No objection.

7 THE COURT: Do we have all of the exhibits?

8 MR. MISKIEWICZ: We have the Amex bills and we
9 have the mortgage history which is government's 1453.

10 THE COURT: Put the Amex bills on the record.
11 We will give them back 3102.

12 MR. MISKIEWICZ: The Amex bills would be 3110,
13 3111, 3112, 3113.

THE COURT: Okay. Does everybody agree on that?

15 MR. HALEY: Yes.

16 THE COURT: Mr. LaRusso?

17 | MR. LARUSSO: Yes.

18 THE COURT: We will bring them out. Does the
19 Court Reporter have the highlighted portion?

20 MR. HALEY: Yes, she has it.

21 THE COURT: Okay. Let's bring them out.

22 (The jury is present.)

23 | THE COURT: Please be seated.

24 Members of the jury, I received the latest note
25 which asked for two things.

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1 First, is there evidence of the location of P.
2 Kenner on or about December 1 through 8 of 2009 and/or is
3 there an Amex statement for P. Kenner with the closing
4 date earlier than the date on 3102.

5 With respect to your first question, there is
6 one document that relates to that that is responsive to
7 that which we will send back. What's the Government's
8 exhibit number on that?

9 MR. MISKIEWICZ: Government's Exhibit 1453.

10 THE COURT: There's one piece of testimony by
11 Mr. Kenner that's relevant to that, so I'll ask the Court
12 Reporter to read that back to you.

13 (Record read.)

14 THE COURT: That completes the readback.

15 In connection with your second question, is
16 there an Amex statement for P. Kenner with the closing
17 date earlier than the date on 3102, I'm giving you back
18 the copy of 3102 that you gave me, and there are Amex
19 statements for Mr. Kenner that is prior to the closing
20 date on that statement that was introduced into evidence
21 and we provided to you. We will give those to juror
22 number one now and you can return to the jury room to
23 deliberate.

24 A JUROR: That was the exhibit number?

25 THE COURT: 3102, when you gave me the note, you

1 gave me an Amex statement with the exhibit number 3102, so
2 I'm returning that exhibit to you along with any Amex
3 statements of P. Kenner that are in the record that
4 predates that.

5 A JUROR: Thank you.

6 (The jury continues deliberations at 2:05 p.m.)

7 MR. LA RUSSO: Your Honor, there's a stipulation
8 that was being circulated by Mr Miskiewicz. I just got a
9 copy of it. I noticed that the caption has Mr. Tommy C.
10 Hormovitis. If there's -- I don't know -- none of these
11 stipulations have gone to the jury room, but I just want
12 to highlight that there may have to be a redaction in the
13 caption.

14 THE COURT: If any stipulation needs to be
15 redacted, we will do it.

16 (Recess taken.)

17 (After recess.)

18 (Time noted: 2:45 p.m.)

19 THE CLERK: All rise.

20 THE COURT: Please be seated.

So we have another note marked Court Exhibit 16.

22 We're looking for information about P. Kenner's
23 whereabouts in December 2008. Date specific, 12/1 through
24 12/7/2008.

25 It looks like the other note was 2009. Do we

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1 have something responsive to that range?

2 MR. LARUSSO: No.

3 MR. HALEY: No.

4 MR. MISKIEWICZ: There's no document or
5 testimony particular to that range.

6 THE COURT: The testimony did relate to December
7 2009 though, right?

8 MR. HALEY: Yes.

9 THE COURT: Is there some other event in 2008?

10 MR. MISKIEWICZ: Later in that month the Timothy
11 Gaarn account is open at Wachovia and the indictment
12 alleges that certain investments are run through that
13 account.

14 I'm not suggesting that would be responsive, but
15 I would suggest or request that first I think we all agree
16 there is no testimony or exhibit that's responsive to the
17 particular dates December 1 through December 7, 2008, and
18 then perhaps just suggest that if they wish to modify or
19 explain or elaborate or request some other or rephrase
20 their question, we will try to be -- we will try to
21 provide whatever they're asking for.

22 MR. HALEY: My position, judge, is we should
23 simply answer the question that the jury asked.

24 THE COURT: Yes. I ask for clarification when
25 the question is not clear. This is a clear question.

1 We're not sure why they're asking it. The question is not
2 unclear. My intention is to say there is no evidence in
3 the record regarding Phil Kenner's whereabouts between
4 December 1st and December 7, 2008.

5 MR. MISKIEWICZ: Okay.

6 MR. LARUSSO: Yes.

7 MR. HALEY: Thank you.

THE COURT: Okay.

9 | THE CLERK: All rise.

10 (The jury is present.)

11 THE COURT: Please be seated.

12 Members of the jury in response to your last
13 note, which is we are looking for information about P.
14 Kenner's whereabouts in December '08, date specific,
15 December 1 through December 7, '08.

16 The answer to that question is that there is no
17 information in the record regarding Mr. Kenner's
18 whereabouts between December 1st and December 7 of 2008.

19 | Thank you.

20 | (The jury continues deliberations at 2:50 p.m.)

21 (Recess taken.)

22 (After recess.)

23 (Time noted: 3:05 p.m.)

24 THE CLERK: All rise.

THE COURT: Please be seated.

6201

1 We have a note which has been shown to both
2 sides marked as Court Exhibit 17 which says we have
3 reached a verdict.

4 We will bring in the jury for the verdict.

5 THE CLERK: All rise.

6 (The jury is present.)

7 THE COURT: Please be seated.

8 Members of the jury, I received your note saying
9 we have reached a verdict which has been marked as Court
10 Exhibit 17.

11 Madam foreperson, has the jury reached a
12 unanimous verdict as to each count?

13 THE FOREPERSON: Yes, we have.

14 THE COURT: If you could hand up the verdict
15 sheet so I can inspect it.

16 (Pause in proceedings.)

17 THE COURT: I'm handing it back to the
18 foreperson for the reading of the verdict.

19 Please stand, madam foreperson.

20 As to count one, conspiracy to commit wire
21 fraud.

22 On the charge of conspiracy to commit wire fraud
23 in count one, how do you find the defendant Phillip A.
24 Kenner?

25 Is the jury's unanimous verdict not guilty or

6202

1 guilty?

2 THE FOREPERSON: Guilty.

3 THE COURT: On the charge of conspiracy to commit
4 wire fraud in count one, how do you find the defendant
5 Tommy C. Constantine?

6 Is the jury's unanimous verdict not guilty or
7 guilty?

8 THE FOREPERSON: Guilty.

9 THE COURT: As to count two, wire fraud, February
10 12, 2009.

11 On the charge of wire fraud in count two, how do
12 you find the defendant Phillip A. Kenner?

13 Is the jury's unanimous verdict not guilty or
14 guilty?

15 THE FOREPERSON: Guilty.

16 THE COURT: On the charge of wire fraud in count
17 two, how do you find the defendant Tommy C. Constantine?

18 Is the jury's unanimous verdict not guilty or
19 guilty?

20 THE FOREPERSON: Guilty.

21 THE COURT: As to count three, wire fraud,
22 February 26, 2009.

23 On the charge of wire fraud in count three, how
24 do you find the defendant Phillip A. Kenner?

25 Is the jury's unanimous verdict not guilty or

6203

1 guilty?

2 THE FOREPERSON: Guilty.

3 THE COURT: On the charge of wire fraud in count
4 three, how do you find the defendant Tommy C. Constantine?

5 Is the jury's unanimous verdict not guilty or
6 guilty?

7 THE FOREPERSON: Guilty.

8 THE COURT: As to count four, wire fraud, May 22,
9 2009.

10 On the charge of wire fraud in count four, how
11 do you find the defendant Phillip A. Kenner?

12 Is the jury's unanimous verdict not guilty or
13 guilty?

14 THE FOREPERSON: Guilty.

15 THE COURT: On the charge of wire fraud in count
16 four, how do you find the defendant Tommy C. Constantine?

17 Is the jury's unanimous verdict not guilty or
18 guilty?

19 THE FOREPERSON: Guilty.

20 THE COURT: As to count five, wire fraud,
21 December 7, 2009.

22 On the charge of wire fraud in count five, how
23 do you find the defendant Phillip A. Kenner?

24 Is the jury's unanimous verdict not guilty or
25 guilty?

6204

1 THE FOREPERSON: Not guilty.

2 THE COURT: On the charge of wire fraud in count
3 five, how do you find the defendant Tommy C. Constantine?

4 Is the jury's unanimous verdict not guilty or
5 guilty?

6 THE FOREPERSON: Guilty.

7 THE COURT: As to count six, wire fraud, December
8 7, 2009.

9 On the charge of wire fraud in count six, how do
10 you find the defendant Phillip A. Kenner?

11 Is the jury's unanimous verdict not guilty or
12 guilty?

13 THE FOREPERSON: Not guilty.

14 THE COURT: On the charge of wire fraud in count
15 six, how do you find the defendant Tommy C. Constantine?

16 Is the jury's unanimous verdict not guilty or
17 guilty?

18 THE FOREPERSON: Guilty.

19 THE COURT: As to count seven, wire fraud,
20 November 20, 2008.

21 On the charge of wire fraud in count seven, how
22 do you find the defendant Phillip A. Kenner?

23 Is the jury's unanimous verdict not guilty or
24 guilty?

25 THE FOREPERSON: Guilty.

6205

1 THE COURT: As to count eight, wire fraud,
2 December 31st, 2008.

3 On the charge of wire fraud in count eight, how
4 do you find the defendant Phillip A. Kenner?

5 Is the jury's unanimous verdict not guilty or
6 guilty?

7 THE FOREPERSON: Not guilty.

8 THE COURT: As to count nine, money laundering
9 conspiracy.

10 On the charge of conspiracy to commit money
11 laundering in count nine, how do you find the defendant
12 Phillip A. Kenner?

13 Is the jury's unanimous verdict not guilty or
14 guilty?

15 THE FOREPERSON: Guilty.

16 THE COURT: On the charge of conspiracy to commit
17 money laundering in count nine, how do you find the
18 defendant Tommy C. Constantine?

19 Is the jury's unanimous verdict not guilty or
20 guilty?

21 THE FOREPERSON: Guilty.

22 THE COURT: You can be seated.

23 Members of the jury, please listen to your
24 verdict as has been recorded by the Court.

25 As to count one, conspiracy to commit wire

6206

1 fraud.

2 On the charge of conspiracy to commit wire fraud
3 in count one, how do you find the defendant Phillip A.
4 Kenner?

5 The jury's unanimous verdict guilty.

6 On the charge to conspiracy to commit wire fraud
7 on count one, how do you find the defendant Tommy C.
8 Constantine.

9 The jury's unanimous verdict guilty.

10 As to count two, wire fraud, February 12, 2009.

11 On the charge of wire fraud in count two, how do
12 you find the defendant Phillip A. Kenner?

13 The jury's unanimous verdict guilty.

14 On the charge of wire fraud in count two, how do
15 you find the defendant Tommy C. Constantine?

16 The jury's unanimous verdict guilty.

17 As to count three, wire fraud, February 26,
18 2009.

19 On the charge of wire fraud in count three, how
20 do you find the defendant Phillip A. Kenner?

21 The jury's unanimous verdict guilty.

22 On the charge of wire fraud in count three, how
23 do you find the defendant Tommy C. Constantine?

24 The jury's unanimous verdict guilty.

25 As to count four, wire fraud, May 22, 2009.

6207

1 On the charge of wire fraud in count four, how
2 do you find the defendant Phillip A. Kenner?

3 The jury's unanimous verdict guilty.

4 On the charge of wire fraud in count four, how
5 do you find the defendant Tommy C. Constantine?

6 The jury's unanimous verdict guilty.

7 As to count five, wire fraud, December 7, 2009.

8 On the charge of wire fraud in count five, how
9 do you find the defendant Phillip A. Kenner?

10 The jury's unanimous verdict not guilty.

11 On the charge of wire fraud in count five, how
12 do find the defendant Tommy C. Constantine?

13 The jury's unanimous verdict guilty.

14 As to count six, wire fraud, December 7, 2009.

15 On the charge of wire fraud in count six, how do
16 you find the defendant Phillip A. Kenner?

17 The jury's unanimous verdict not guilty.

18 On the charge of wire fraud in count six, how do
19 you find the defendant Tommy C. Constantine?

20 The jury's unanimous verdict guilty.

21 As to count seven, on the charge of wire fraud,
22 November 20, 2008.

23 On the charge of wire fraud in count seven, how
24 do you find the defendant Phillip A. Kenner?

25 The jury's unanimous verdict guilty.

6208

1 As to count eight, wire fraud, December 31,
2 2008.

3 On the charge of wire fraud in count eight, how
4 do you find the defendant Phillip A. Kenner?

5 The jury's unanimous verdict not guilty.

6 As to count nine, money laundering conspiracy.

7 On the charge of conspiracy to commit money
8 laundering in count nine, how do you find the defendant
9 Phillip A. Kenner?

10 The jury's unanimous verdict guilty.

11 On the charge of conspiracy to commit money
12 laundering in count nine, how do you find the defendant
13 Tommy C. Constantine?

14 The jury's unanimous verdict guilty.

15 Members of the jury, is that your unanimous
16 verdict? So say you all?

17 ALL JURORS: Yes.

18 THE COURT: I'll poll the jury now.

19 Is that your verdict, juror number 1?

20 JUROR NO. 1: Yes.

21 THE COURT: Is that your verdict, juror number 2?

22 JUROR NO. 2: Yes.

23 THE COURT: Is that your verdict, juror number 3?

24 JUROR NO. 3: Yes.

25 THE COURT: Is that your verdict, juror number 4?

6209

1 JUROR NO. 4: Yes.

2 THE COURT: Is that your verdict, juror number 5?

3 JUROR NO. 5: Yes.

4 THE COURT: Is that your verdict, juror number 6?

5 JUROR NO. 6: Yes.

6 THE COURT: Is that your verdict, juror number 7?

7 JUROR NO. 7: Yes.

8 THE COURT: Is that your verdict, juror number 8?

9 JUROR NO. 8: Yes.

10 THE COURT: Is that your verdict, juror number 9?

11 JUROR NO. 9: Yes.

12 THE COURT: Is that your verdict, juror number

13 10?

14 JUROR NO. 10: Yes.

15 THE COURT: Is that your verdict, juror number

16 11?

17 JUROR NO. 11: Yes.

18 THE COURT: Is that your verdict, juror number

19 12?

20 JUROR NO. 12: Yes.

21 THE COURT: The jury has been polled.

22 The verdict is unanimous. I'll let the lawyers
23 inspect the verdict sheet at sidebar before I dismiss the
24 injury.

25 (Continued on next page.)

6210

1 (The following takes place at sidebar.)

2 MR. LARUSSO: I have inspected it.

3 MR. HALEY: I have as well.

4 Thank you.

5 THE COURT: Anything then before I dismiss the
6 jury?

7 MR. LARUSSO: No.

8 MR. HALEY: No, sir.

9 MS. KOMATIREDDY: No, your Honor.

10 Thank you.

11 (Continued on next page.)

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1 (The following takes place in open court.)

2 THE COURT: Members of the jury, your jury
3 service is complete.

4 Before I send you home, and I'm sure you felt
5 this day might never come, I thank you for your service in
6 this case.

7 I have never said this before, but I'll say it.
8 I've been a judge nine-and-a-half years. This is the most
9 extraordinary jury I ever had as a judge for several
10 reasons

11 The first is over two months ago when you had
12 jury selection, I had hundreds of people in the ceremonial
13 courtroom. As you saw, when I said five weeks, there was
14 a long line of people who complained. It took hours.
15 Some people have very good reasons for not serving, but a
16 lot of people just don't want to be bothered.

17 But each of you heard it was going to be five
18 weeks and despite your busy lives you were willing to step
19 up to the plate to perform your duty as a citizen and you
20 should be proud of that fact.

That is an extraordinary thing in and of itself.
While it was particularly extraordinary, as you know, it
took 10 weeks rather than 5 weeks. It was double.

24 And even when it became clear that this was
25 going to be much longer than I estimated, each of you were

6212

1 willing to serve. I didn't get any complaints from
2 Michelle that you were complaining despite the fact that
3 the estimate turned out to be way off.

4 And I know I wrote letters for some employers.
5 I know some of you have had vacations scheduled. I was
6 telling the judges at lunch that this is an amazing thing,
7 that people are not only willing to serve as jurors, but
8 to alter their lives so they can continue to serve, and
9 you should be very proud of that.

10 You should also be proud in not only did you
11 serve, but the manner that you served. You were
12 conscientious, you were here on time, you were paying
13 attention, and even though it was a very long trial you
14 continued to pay attention throughout. You took your job
15 seriously and did a conscientious job so you should be
16 proud of that fact too.

17 You have my deepest thanks. I can't say it any
18 stronger than that and it's very sincere. It's not my
19 practice to speak to the jurors afterward and shake your
20 hand and tell you thanks personally. I think it's better
21 to do it in open court and respect your privacy. I don't
22 want you to thinking it's for lack of appreciation. You
23 have my deepest gratitude.

24 The other thing I'll say is that the instruction
25 I've been giving you so often that you're sick of it, that

6213

1 you can't discuss the case with anyone, doesn't apply
2 anymore. You can discuss the case with anyone you wish or
3 nobody at all. It's a completely personal decision. It's
4 up to you, but you can discuss the case with anyone that
5 you would like.

6 So with those thoughts I want to again thank you
7 and I wish you and your family good luck.

8 Thank you. You're excused.

9 (The jury is excused.)

10 THE COURT: Be seated.

11 The defendants are renewing their Rule 29
12 motions at this time?

13 MR. LARUSSO: On behalf of Mr. Constantine; yes,
14 your Honor.

15 MR. HALEY: Yes, sir.

16 THE COURT: Let's set a schedule for the motion.
17 I will deem the motions to be orally made consistent with
18 the rule and we will set a schedule for that. I'll leave
19 it up to you within reason.

20 MR. HALEY: Given the complexity of the case, I
21 request 30 days.

22 THE COURT: That's reasonable.

23 MR. LARUSSO: Your Honor, I join in that
24 request.

25 THE COURT: So August 10th for the Rule 29

6214

1 motions.

2 The government, 30 days to respond?

3 MR. MISKIEWICZ: Yes, your Honor thank.

4 THE COURT: September 10th, reply, September
5 21st, and we will set it down for argument on October 13th
6 at 1:15.

7 So the sentencing process, the presentence
8 report can be prepared even though the motion will be
9 pending.

10 I'll set a sentencing date of November 20th at
11 10:30 for Mr. Kenner and 11:30 for Mr. Constantine.

12 MR. LARUSSO: Your Honor, if there's a conflict,
13 I may be on trial then, I'm sure the Court's open to an
14 adjournment?

15 THE COURT: Yes.

16 Is that okay for you, Mr. Haley, for now?

17 MR. HALEY: Yes, sir.

18 THE COURT: Is there anything else today from
19 the government?

20 MR. MISKIEWICZ: Yes, your Honor.

21 MS. KOMATIREDDY: Your Honor, at this time, we
22 ask that Mr. Constantine be remanded under the Bail Reform
23 Act, 18 U.S.C. 3143(b)(2) a defendant who has been
24 convicted and is waiting sentence must be detained unless
25 the Court finds by clear and convincing evidence that the

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1 defendant is unlikely to flee or pose a danger.

2 Over the course of the trial the government
3 presented evidence that Mr. Constantine, even after the
4 charged conduct in this case and in the time leading up to
5 his arrest in this case and afterwards, posed a danger to
6 the community in that he continued to propagate his
7 frauds, specifically the fraud with respect to the Falcon
8 airplane that the government seized in this case.

9 Over the course of the trial the government
10 presented evidence that there were multiple operating
11 agreements issued by Mr. Constantine to various investors,
12 and through those operating agreements Mr. Constantine
13 sold and resold that plane, taking money for shares in the
14 plane, and not providing an interest in return.

15 Specifically Mr. Constantine sold 10 percent
16 interest in the Falcon 10, in addition to another plane,
17 the Falcon 20, to individuals in Arizona who are victims
18 of this separate fraud; David Jacofski, Anthony Powell,
19 Ken Whaling, the owners of Vemma Nutritional Company and
20 AGT Venture Holdings.

21 Bank records from AZ Falcon Partners introduced
22 at trial showed that those individuals contributed in
23 excess of \$400,000 in order to buy the Falcon 10 airplane,
24 the very Falcon 10 airplane that this defendant also told
25 the hockey players that they owned through AZ Falcon

6216

1 Partners as a result of the hockey players' money,
2 specifically \$415,000 from the Global Settlement Fund,
3 going to buy that airplane out of repossession from 1st
4 Source Bank.

5 At the same time as these two different sets of
6 representations, Mr. Constantine also signed an AZ Falcon
7 operating agreement allocating the Falcon 10 airplane to
8 Eric Edenholm, Sue Ellen Fergusson and himself. That was
9 Government's Exhibit 4218.

10 And yet again in a fourth version of that story
11 Mr. Constantine told his accountant, Mr. Semple, that
12 actually it was himself and Sergei Gonchar who owned the
13 Falcon 10 airplane 50/50. That came out in Mr. Semple's
14 testimony. It's also represented as such in
15 Mr. Constantine's bankruptcy petition which is admitted as
16 Government's Exhibit 8012-C.

17 In light of this continued fraudulent activity,
18 we would submit Mr. Constantine presents a danger to the
19 community and asks he be remanded at this time.

20 THE COURT: Mr. LaRusso.

21 MR. LARUSSO: Thank you, your Honor.

22 As the Court is well aware, 3143 directs that
23 the Court shall remand if there is the possibility of
24 flight or danger to the community.

25 It also says that the Court shall release if

6217

1 there is no danger or flight or if there is no danger to
2 the community.

3 The government is alleging, Judge, is a
4 continued fraud which never happened.

5 If the Court may remember, during the
6 government's summation they brought this up and they
7 actually represented to the jury that this airplane was
8 sold over and over again. I believe they said it was sold
9 four times.

10 It never was sold four times. The airplane was
11 put into an entity and then, even though there was an
12 agreement to transfer, it was left in escrow. There was
13 never any completed sale and that was left there because
14 of the uncertainty of the investments that were made by
15 the hockey players. That was Mr. Constantine's conscious
16 decision not to go forward with that transaction.

17 Now the government is taking it and flipping it
18 and they are trying to say he's a danger to the community
19 because of the financial situation.

20 I beg to differ, Judge. I don't believe the
21 evidence supported that. As a matter of fact, I believe
22 there was a misrepresentation made to the jury regarding
23 this constant selling of the airplane which didn't occur.

24 Your Honor, in regards to risk of flight, I
25 think it's pretty clear Mr. Constantine poses no risk of

6218

1 flight here.

2 The Court entertained a bail application and
3 over the government's objection over 16 months ago you
4 released him on a \$4 million bond. That was over 16
5 months ago.

6 His record since the day he was released is
7 impeccable. I would ask the Court, if it feels that there
8 is the necessity, to contact his pretrial service officer.
9 His name is Gilbero Lara in Arizona.

10 And, Judge, he will confirm that Mr. Constantine
11 has been 100 percent compliant at all times regardless of
12 any of the conditions imposed, including scheduling calls,
13 schedules, reschedule meetings, movement restrictions,
14 even to the point where he insured that his bracelet that
15 he had on, which was insuring house arrest, was charged
16 and he even indicated to my client that he had never seen
17 that occurring.

18 In addition, Judge, I remember several months
19 ago, actually probably before trial, that this pretrial
20 service officer felt it was in the best interest of my
21 client to leave the house, that he even recommended that
22 he be given additional freedom to at least leave the house
23 and go to the park. That's unheard of from a pretrial
24 service officer.

25 It seems to me, Judge, that Mr. Constantine not

6219

1 only has demonstrated to the pretrial service officer in
2 Arizona his complete compliance, but he's done so with the
3 Court as well.

4 Any time there's been a court appearance he has
5 made it and made sure he was here on time, if not early.
6 I even remember the one time when he had a problem making
7 a flight to get here, he panically called us and
8 Mr. Oliveras wrote a letter to the Court on Sunday night
9 indicating to the Court that the security at the airport
10 detained him because of the bracelet that he was wearing,
11 and was concerned he may not get here on Monday morning in
12 time for the court proceeding. However, he did. He was
13 able to catch a flight the next morning and arrived early
14 enough to be able to come here.

15 So in terms of that, not only his demonstration,
16 the fact that he's not a flight risk, Judge, he's
17 demonstrate to the Court and to you that he has at all
18 times complied with the Court's requirements.

19 THE COURT: The Falcon 10 aircraft is in escrow?

20 MR. LARUSSO: Has been, Judge, for approximately
21 two years. Mr. Semple testified to that as well.

22 THE COURT: Let me ask who, since
23 Mr. Constantine has been on bail, whose money has
24 Mr. Constantine taken with respect to the Falcon 10
25 aircraft? Who has he defrauded since he's been on bail,

6220

1 according to the government?

2 MS. KOMATIREDDY: The money of the following
3 investors in Arizona who subsequently filed a lawsuit
4 against Mr. Constantine.

5 Your Honor will recall Sergei Gonchar was also
6 part of that lawsuit and was deposed in that lawsuit last
7 September in the lawsuit.

8 The investors are named as Anthony Powell, David
9 Jacofski, Ken Whaling, Vemma Nutritional Company, and AGT
10 Ventures Holdings.

11 And I will briefly respond to Mr. LaRusso that
12 in a sense it is true that the physical plane is currently
13 in the custody of the Marshals.

14 And according to e-mail traffic, Mr. Constantine
15 and Christine Hancock, the individual at Aerospace
16 Reports, which is the escrow company for the plane, there
17 is e-mail traffic back and forth as to whether to actually
18 transfer the plane from AZ Falcon Partners to Falcon 10
19 Partners or another version of AZ Falcon Partners.

20 Perhaps it's correct that the actual transfer
21 has not occurred, but Mr. Constantine has taken the money
22 from those investors who intended to take possession,
23 although possession of the plane has not changed hands,
24 the money has already changed hands, and that's our
25 concern.

6221

1 MR. LARUSSO: Your Honor, the facts are in
2 dispute.

3 The money was not taken since he was released.

4 My client, as you know, has more familiarity
5 with the facts.

6 And it was in 2011-2012 and it was disclosed to
7 all the partners that this investment was being held as a
8 deposit until it was resolved, until a loan had been paid
9 off.

10 This idea this was an ongoing when he was on
11 bail is not factually correct, your Honor.

12 THE COURT: The Court is denying the
13 government's application to remand Mr. Constantine with
14 respect to danger to the community.

15 The grounds is that these transactions with the
16 Falcon 10 amount to a fraud and that if he's continued on
17 bail, presumably from his home he could continue to engage
18 in fraud.

19 I don't believe, based upon what I heard,
20 that -- obviously there have been some dealings, some
21 transaction, but the plane itself is in escrow. None of
22 these other individuals, although there was testimony
23 obviously and some documentation with respect to the more
24 recent event with the Falcon 10, it was by no means
25 sufficient by my view for this Court to conclude that some

6222

1 type of fraud has been committed.

2 Some of these individuals that Ms. Komatireddy
3 has mentioned, weren't even witnesses at the trial. I
4 don't know what their discussions were with
5 Mr. Constantine, what representations he made to them.

6 So for me to conclude that they have been the
7 victims of the fraud, based upon the limited testimony I
8 heard at the trial with respect to the more recent events
9 of that aircraft, would not be proper.

10 It is an insufficient record for me to conclude
11 that he engaged in a fraud with respect to the recent
12 events.

13 If the government wants to submit more details
14 on that, perhaps I would reconsider, but I believe
15 Mr. Constantine has demonstrated by clear and convincing
16 evidence that pursuant to the bail conditions that I
17 previously set, including home detention, that he does not
18 pose an ongoing danger to the community.

19 In terms of an economic danger, there's no other
20 argument that he poses any other type of danger to the
21 community.

22 Although the government didn't argue this, I
23 also find by clear and convincing evidence that given the
24 bail conditions I previously set, and the home detention
25 with monitoring, that he's not a risk of flight.

6223

1 He could have fled a long time ago if he wanted
2 to try and escape the consequences of this case. He's
3 been compliant, and as Mr. LaRusso noted, for several
4 years in every respect while on bail and I refuse to
5 believe he's going to leave and go overseas and become a
6 fugitive and leave his family.

7 I know people posted their homes and co-signed
8 the bond and I don't believe that he's going to leave them
9 in the United States with that obligation. I find that
10 not a plausible scenario based upon what I have seen, so
11 I'll let him remain on bail.

12 Mr. Constantine, obviously you understand all
13 your current bail conditions are continuing; do you
14 understand that?

15 MR. CONSTANTINE: I do, your Honor.

16 THE COURT: Mr. LaRusso, I'll make this request.
17 If Mr. Constantine has any ongoing transactions with
18 respect to that aircraft, he has to advise the Court if
19 he's engaged in any negotiations. I don't expect that
20 that will happen at this point given where we're at in the
21 case and the fact the plane is in escrow.

22 I'm placing an additional limitation that before
23 he engages in any additional negotiations with respect to
24 that aircraft, he has to get approval from the Court.

25 Do you understand that?

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1 MR. LARUSSO: Yes, I do.

2 THE COURT: Do you understand, Mr. Constantine?

3 MR. CONSTANTINE: I do, your Honor.

4 THE COURT: Is there anything else from the
5 government?

6 MS. KOMATIREDDY: No.

7 MR. MISKIEWICZ: No, your Honor.

8 THE COURT: Anything else from the defense?

9 MR. LARUSSO: No, your Honor.

10 MR. HALEY: No, sir.

11 THE COURT: Thank you.

12 (Proceedings in this matter are concluded.)

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